
Canvassing Kansas



An update on election news in Kansas

Published by Secretary of State Ron Thornburgh

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Advance Voting Takes Effect

The August 6 Democratic/Republican primary was the first statewide election to be held under the advance voting law passed in 1995. The Kansas Legislature that year passed legislation proposed by the Secretary of State to alter and expand the former absentee voting laws into what is now called advance voting.

Under the previous laws, a person could vote an absentee ballot only if that person could provide an "excuse": absence from the county, sickness, disability or religious objection. Advance voting allows any registered voter to choose to vote by mail or in person up to twenty days before any election without having to specify a reason. Thus, advance voting has sometimes been referred to as "no-excuse absentee voting."

There was some apprehension among county election officers going into the primary season. It was impossible to predict how many voters would choose the advance voting option or how many would vote by mail or in person in the county election office. County election officers had to plan procedures, print ballots and, in some cases, hire additional staff in expectation of a large advance

voting turnout.

Unofficial reports received from the counties by the Secretary of State's office have shown that the advance voting process went very well. It is popular with most voters and county election officers. Most seem to be less apprehensive going into the general election season.

The Secretary of State's office collected unofficial numbers of advance votes and total votes cast on election night. According to those tallies, approximately 40,000 advance ballots were cast out of a little over 532,000 total votes cast. This is 7.5%, which is a significant increase over previous absentee vote totals. In the past, an average of 4% of the vote cast in general elections was cast by absentee voters. Thus, advance voting in the primary is nearly double the absentee totals from previous general elections, and it has not been publicized yet in many areas.

Some county election officers and voting groups conducted local public relations campaigns advertising advance voting before the primary, and many of those efforts will continue or increase in the weeks before the November general election. The Secretary of State's office has planned a media campaign to pro-

mote advance voting as part of the voter outreach program for 1996 (see the article elsewhere in this issue).

As the word gets out about advance voting through these organized campaigns and by word of mouth, we can expect the total number and percentage of advance votes cast to increase in November and subsequent elections. Under advance voting, opportunities to vote have expanded so that nearly everyone who wants to vote is able to do so.

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NVRA Fully Implemented

The Secretary of State's office has used this newsletter for the past several years to keep county election officers and others informed on issues related to the National Voter Registration Act of 1993 (NVRA). This time we are able to report that the NVRA in Kansas is fully implemented. While it has brought about many changes in Kansas registration and voting, most of the problems have been addressed and the NVRA has become part of the regular operations of a wide range of offices, both public and private.

As chief state election officer, Secretary of State Ron Thornburgh expresses his appreciation to county election officers, driver's license examination employees, public assistance office employees, disabilities office employees, and others who have made the necessary effort to work through the problems and accomplish the goal of full implementation of this program. Especially for county election officers, implementing a broad program such as NVRA during a presidential election year is perhaps the most difficult way to do it, considering that they have other duties to perform as well. Their efforts are admirable.

Lawsuit dismissed—The NVRA lawsuit filed in August of 1995, entitled League of Women Voters of Kansas et al. versus Bill Graves et al., was dismissed by the federal court on June 28, 1996. The judge had issued a preliminary injunction on November 30, 1995, ordering the defendants, Governor

Graves and Secretary of State Thornburgh, to proceed with implementation of the NVRA. The 1996 Kansas Legislature passed implementing legislation in the form of Senate Substitute for Substitute for House Bill 2079. State and local officials continued their efforts to achieve compliance with the requirements of the new laws. The joint motion for dismissal was made by the plaintiffs and defendants, leading to the judge's dismissal.

Disabilities offices brought into compliance—The NVRA requires the state to include as mandatory voter registration offices "all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities." Further, "if a voter registration agency...provides services to a person with a disability at the person's home, the agency shall provide the (voter registration) services...at the person's home." Identifying which offices in Kansas to include in this definition was one of the most difficult tasks in planning implementation of the NVRA, because there is no single state agency that oversees their operations and because many of the offices serve a wide variety of clients and receive funding from various sources. The Secretary of State, acting in his capacity as chief state election officer, proceeded in the absence of a single state disabilities office, to contact the known offices and supply them with manuals and registration forms. There are

more than 100 such offices now conducting voter registration. Many of them had already voluntarily complied when county election officers implemented the interim NVRA plan during the fall of 1994.

Aid to counties distributed—The 1996 Kansas Legislature appropriated \$400,000 to aid counties in paying for their first-year start-up costs associated with implementing the NVRA. Former Secretary of State Bill Graves and current Secretary of State Thornburgh had recommended the Legislature assist the counties. Upon receiving the appropriation this year, Secretary Thornburgh asked county election officers to submit estimates of their NVRA costs, and, using the estimates, devised a formula for distributing the full appropriation among the counties on a pro rata basis.

Fail-safe voting increases—The major NVRA provision dealing with voting procedures is fail-safe voting. In sum, the fail-safe provision allows any registered voter who moved within the county and failed to update the address with the county election officer to appear at the polling place on election day, complete a new registration form, and vote a provisional ballot. In that sense, fail-safe voting applies only to voters who have changed addresses or names; the NVRA rules simply expanded the number of potential fail-safe (provisional) voters.

Election judges may also challenge voters based on their other

(Continued on page 4)



New Oppor

• Kansans

Dear Friends,

Another election season is upon us, and I hope everyone feels the same excitement and anticipation I feel as we approach November 5. Presidential races always cause more enthusiasm and, consequently, more voters than other elections. It is now our job to turn the interest into tangible results with a larger voter turnout in November.

We have made the registration and voting processes easier for prospective voters by implementing the National Voter Registration Act and by instituting advance voting. Anyone who wants to register and vote now has ample opportunity to do so.

Our work is not yet done, though. Our job now is education. We must inform the voting public of the candidates, issues, and procedures involved in voting as well as the importance of voting. Currently this office is involved in three efforts to improve voter education.

- Kids Voting Kansas creates lifelong voters. By starting children early, teaching them how to register and vote, they'll be familiar with the process when they reach age eighteen.
 - The expanded voter outreach program has been developed in the past six months. A package of information is being prepared for distribution to county election officers, private organizations, and the media for their use. The package will include articles, pamphlets, information on voting and candidates, and public service announcements.
 - A nonpartisan voter guide is being promoted in cooperation with the Kansas Press Association, Kids Voting Kansas and the League of Women Voters of Kansas. Questionnaires were sent to candidates, and their responses will be distributed in a voter guide to promote awareness of the issues and candidates this fall.
- Best of luck on November 5! In the meantime, keep working to educate our voters.

Sincerely,

RON THORNBURGH
Secretary of State

**(NVRA Fully Implemented--
Continued from page 2)**

qualifications to vote. The act of challenging a voter also results in a provisional ballot.

Adding these NVRA-style fail-safe voters to the usual number of traditional challenges has caused an increase in provisional ballots in many counties. County election officers have had to plan their canvassing procedures to accommodate the increased number of provisional ballots, and it has increased the amount of work the board of canvassers must complete during the canvass in some counties.

The advent of fail-safe voting and the corresponding increase in provisional (challenged) ballots can cause confusion in determining election results. The unofficial election-night tallies don't include provisional ballots, which are added to the totals only after the county board of canvassers decides whether they should be counted. In close races it is sometimes difficult to tell with certainty on election night which candidate won.

*More news about the
NVRA in Kansas will
appear in future edi-
tions of this
newsletter.*



REMINDERS...

We want to remind county election officers of the following upcoming deadlines.

- The next reporting date for the **central voter registration** database is October 1. Each CEO must send a copy of the complete database to the SOS as of October 1. Deadline to submit it is October 15. There is a lot of interest in the CVR file this election season, so we ask CEOs to submit their reports as soon after October 1 as possible.
- The next reporting date for **County NVRA Reports** is November 6. A new regulation, K.A.R. 7-38-2, is in the process of being adopted and will go into effect soon. That regulation says that county NVRA reports are due quarterly (the same as CVR reports) except in even-numbered election years, when the third quarter statistics must include data through election day instead of September 30. This coincides with the Federal Election Commission's schedule of reporting the data to Congress. Report forms will be provided by the Secretary of State.
- **Advance voting** ballots for the general election must be mailed to voters beginning October 16. County election officers may begin in-office advance voting as early as October 16, and they must begin it by October 29.

Electronic Access

An article on electronic reporting in the June, 1996 issue of this newsletter announced the Secretary of State's intention to increase electronic access to the office by providing the means for county election officers to submit various reports through the Internet. Possibilities include NVRA quarterly reports, election night tabulation results, official abstracts of votes cast, voter registration and party affiliation data, and central voter registration databases.

Another aspect of our efforts in the electronic domain is our home page on the worldwide web. Persons may access the page and obtain information about the various divisions of the Secretary of State's office. The Elections Division section includes the unofficial election results for national and state offices as reported on primary election night. The primary election results were updated every fifteen to thirty minutes. There were approximately 1,200 accesses of the election results on election night and the day after.

The Secretary of State's web page is located on the Information Network of Kansas (INK). Our address is:

<http://www.ink.org/public/sos/>



New County Clerks

Mary Arganbright assumed the duties of county clerk in Ottawa County when **Carol Slavik** resigned and accepted a job with Henry M. Adkins & Sons of Clinton, Missouri. Mary likes her new duties although she says actually being the clerk is much harder than being a deputy. County clerking must be a 'family thing' because Mary's sister is former SOS employee **Rebecca Bossemeyer**, who is running for county clerk in Geary County. Mary and her husband Michael have two boys: Cory who is nine and Casy who is four. Mary likes to bowl (she has a 160+ average), is on the local recreation commission and is an active member of her alumni association.

Wathena native **Peggy Weishaar** is the new county clerk in Doniphan County. Peggy is engaged to **Tim Franken** who is the controller for Affiliated Foods in Elwood. Peggy started as the payroll clerk in June of 1995. When we asked her if she was having trouble with all her new duties after only working in the office for one year, she said she's had lots of help from **Beverly Ewing** (former Doniphan County Clerk) and her aunt **Pauline Lee** (current Atchison County Clerk). Peggy enjoys doing "anything outdoors- camping and hiking-that sort of thing."

Beverly Ewing recently remarried and was maintaining two houses, one in Doniphan County and the other in Hiawatha. Beverly is moving to the Brown County home and is looking forward to getting settled.

Come to the Fair!

This year the Secretary of State's office will again operate a booth in the Industrial Building at the Kansas State Fair in Hutchinson, September 6 through 15. This is the tenth year we have had the booth.

This year's activities include:

- registering voters
- demonstrating the office's worldwide web page
- publicizing Kids Voting
- publicizing advance voting
- selling Kansas flags
- conducting a straw poll
- distributing free materials

Several county election officers have volunteered to work in the booth again this year. In past years those who have participated have reported they enjoyed meeting the public and seeing the sights.

Conference to be Held

The annual national conference sponsored by the Election Center will be held September 5 and 6 in Boston. A number of county election officers from Kansas plan to attend to hear presentations on implementation of the National Voter Registration Act, postal services for election officials, national legislation and litigation. There will be opportunities to participate in a number of small group discussions on third parties, mail ballot elections, the Americans with Disabilities Act, recounts, statewide voter files, and training election board workers.

Two other groups plan to meet the same weekend: the National Association of State Election Directors (NASSED) and the Joint Election Officials Liaison Committee. Brad Bryant of the Secretary of State's office is a member of NASSED, and Marilyn Chapman, Sedgwick County Election Commissioner, is the chairperson of JEOLC. Both Bryant and Chapman plan to be among the Kansas election officials at the conference.

Election officers interested in joining the Election Center as members should contact: The Election Center, 12543 Westella, Suite 100, Houston, TX, 77077-3929. Their phone number is (713) 293-0101, and their fax number is (713) 293-0453.



Voter Outreach

In the weeks leading up to the November 5 general election many groups are conducting voter registration drives and other efforts designed to get out the vote. In the past the Secretary of State's office has encouraged and assisted such efforts by supplying information and printed materials. This year, however, we have increased our efforts.

Early this year Secretary of State Thornburgh appointed a task force to help design a more comprehensive and coordinated voter outreach program. We are finalizing a package of voter outreach materials that

is being sent to county election officers and news editors.

The voter outreach package includes brochures promoting registration and advance voting, articles on advance voting, voting information tidbits, calendar reminders, a videotaped public service announcement for television stations, and a "Vote 96" logo to use in publications. The materials will also be available to interested persons and groups for use in their own programs. We are offering the materials free of charge as a public service.

County Clerk Turnover

Elections always produce turnover in offices, and this year will be no exception among county election officers. According to information provided by Marshall County Clerk Gayle Landoll, 13 of 105 county clerks in Kansas decided not to seek re-election this year.

Several of the 13 sought other offices, mostly county commissioner, and some retired to seek other job opportunities or to just retire. We will miss all of them, and we wish them luck in their future endeavors.

Of the 92 county clerks who filed for re-election, eight had primary opposition, 14 have general election opposition, but only one had opposition in both.

A Primary of Firsts

The 1996 statewide primary election for national, state, county and township offices was held August 6. Some counties and localities had special questions on their ballots, and there were a number of closely contested primaries for various offices.

In many ways it was a primary of firsts, including the following:

- 1,352,173 registered voters, the most ever for a primary
- 532,294 votes cast (unofficially), the most ever in a primary
- the first statewide election under the provisions of the National Voter Registration Act
- the first statewide election with advance voting
- the first time in more than 30 years that both U.S. Senate seats have been on the ballot

Here is a summary of the number of contested primary races (two or more candidates in the same party):

- 2 Republican and 1 Democratic contested race in the U.S. Senate, out of a total of 2 seats
- 3 Republican and 1 Democratic contested race in the U.S. House of Representatives, out of a total of 4 seats
- 16 Republican and 2 Democratic contested races in the Kansas Senate, out of a total of 40 seats
- 22 Republican and 13 Democratic contested races in the Kansas House of Representatives, out of a total of 125 seats
- 4 Republican and 0 Democratic contested races in the State Board of Education, out of a total of 5 seats up for election.

Registration Increases in 1996

County election officers certified voter registration figures to the Secretary of State after the pre-primary registration cut-off July 22. Overall, registration has increased this year, partly due to increased population and increased registration opportunities under the state motor-voter law and the National Voter Registration Act.

Persons who register to vote in Kansas now have five party affiliation options: Democrat, Republican, Libertarian, Reform, or unaffiliated. Unaffiliated voters are ineligible to vote in partisan primary elections, which are limited to Democrats and Republicans, unless the voters affiliate before receiving the primary election ballot of their party choice. The Libertarian and Reform parties nominate candidates at state conventions. The Reform Party obtained official party recognition in Kansas this year.

Here are some comparisons of 1992 and 1996 registration figures. 1996 was the last time the same offices were up for nomination and election:

	1992	%	1996	%
Total registered voters	1,187,515	--	1,352,173	--
Democrats 29	370,518	31	392,011	
Republicans	526,613	44	594,919	44
Libertarians >1	1,651	>1	9,869	
Reform >1	--	--	109	
Unaffiliated 26	282,430	24	355,265	



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Election Night Tabulation Successful

Once again, the Secretary of State's office was the central collection point for the unofficial results on election night. County election officers reported results by telephone and fax, and the results were entered into a computer system accessible to the media. Media sources continuously updated their information for television,

radio and print. Also, any computer user with access to the Internet could obtain the results on a slightly delayed basis.

The response from county election officers in reporting their results was even better than usual. We received regular reports from most counties, and so far we haven't heard of problems with busy sig-

nals or backed-up fax machines. Our office is staffed until the last county's final results are in. This year that happened at 1:00 a.m., which is much earlier than any year in memory. Thank you to the county election officers for their cooperation in this effort; it would simply be impossible without them.

Write-In Election Procedures

The 1996 primary election brought about its share of close races and ties. The Secretary of State's office has received numerous reports of candidates, especially county and township candidates, who lost a primary and plan to continue their campaigns for office through the write-in procedure.

If a person runs in the primary as a Democrat or Republican, that candidate may not file a petition and run as an independent in the general election, because the petition deadline is noon the day before the primary. Some states have so-called "sore loser" laws that allow a candidate to run as an independent in the general election after losing the primary, but Kansas does not.

Candidates who lose the primary are limited to pursuing the write-in option. Most write-in candidates need only to announce publicly that they are running and ask voters to vote for them. There is no document or fee to file. Once they announce, however, they are considered candidates and they are subject to the campaign finance reporting laws. Write-in candidates for national and state office need to check with the Kansas Commission on Governmental Standards and Conduct, and candidates for county and local office need to check with their respective county election officers.

Write-in candidates for offices elected on a statewide basis, such as President/Vice President, Governor/Lieutenant Governor, Attorney General, Secretary of State, State Treasurer and Insurance Commissioner, must file an affidavit of write-in candidacy with the Secretary of State in order to have their write-in votes tabulated and reported as part of the official tally. They too must comply with campaign finance rules.

Questions often arise concerning whether write-in votes are counted if the candidates' names are misspelled.

Kansas law gives the county board of canvassers in each county the duty of determining which votes count and which do not. The general principle used is voter intent. If the voter's intent on a given write-in vote, or any other questionable vote for that matter, is clear, the canvassers usually count it. If the canvassers cannot determine for whom the voter intended to vote, the vote does not count.

There have been instances where write-in candidates solved the misspell-

ing problem by passing out name stickers for voters to apply to the ballot in the appropriate place. The Attorney General ruled several years ago that stickers were legal according to state law. Some county election officers using optical scanning equipment, however, have experienced difficulty with stickers because they jam their scanning machines. Some of the county election officers have adopted regulations prohibiting the use of write-in stickers in their counties.

Petition Verification

Verifying signatures on petitions and determining the petitions' sufficiency continues to be a complicated and confusing process for county election officers. In the March, 1996 edition of this newsletter (see "Recall Petition Process Reviewed," *Canvassing Kansas*, March, 1996, page 6) we printed an article providing some guidance on how to proceed in accordance with recent legal developments.

The article summarized the Kansas Court of Appeals ruling in the case of Cline et al. v. Meis (21 Kan. App. 2d. 622. (1995)) which results in liberal application of rules determining whether signatures count if names and addresses on petitions are different from names and addresses on the registration records. The rules appear to invalidate the provisions of K.A.R. 7-28-1 and cast doubt on at least one statute in cases involving fundamental rights. The case arose from the handling of a recall petition in Ness County.

When county election officers call to discuss how to proceed with questionable signatures on petitions, we refer them to their county attor-

neys or counselors. One question to resolve is whether the petition deals with a fundamental right and the rules from Cline v. Meis apply. Another question to resolve with county legal counsel is how to apply the provisions of the specific statute governing the petition, or, in the absence of specific statutory guidelines, how to apply K.S.A. 25-3602, 25-3604 and K.A.R. 7-28-1.

Exactly what is considered a fundamental right was not spelled out by the Court of Appeals. Information received informally from the Attorney General's office indicates that fundamental rights are those that are constitutional—that is, they are based in either the Kansas or U.S. Constitution. Ballot access for candidates is one example. On the other hand, some county election officers have recently dealt with petitions to hold elections on liquor by the drink, and that issue is rooted in state law, not the Constitution, so it appears that the regular statutes and regulations apply. Again, county election officers should consult their county attorneys or counselors when in doubt.